

expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the Agency.

(b) If the head of the Agency issues an order denying relief or has not issued an order within 210 days after the submission of the complaint or within 30 days after the expiration of an extension of time granted in accordance with 1803.905(3)(ii), and there is no showing that such delay is due to the bad faith of the complainant—

(1) The complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint; and

(2) The complainant may bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under 10 U.S.C. 2409 in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this authority may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

(c) Whenever a contractor fails to comply with an order issued by the head of agency in accordance with 10 U.S.C. 2409, the head of the Agency or designee shall request the Department of Justice to file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and reasonable attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency.

(d) Any person adversely affected or aggrieved by an order issued by the head of the Agency in accordance with 10 U.S.C. 2409 may obtain judicial review of the order's conformance with the law, and the implementing regulation, in the United States Court of Appeals for a circuit in which the reprisal

is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency or designee. Review shall conform to chapter 7 of title 5, United States Code. Filing such an appeal shall not act to stay the enforcement of the order by the head of an agency, unless a stay is specifically entered by the court.

(e) The rights and remedies provided for in this subpart may not be waived by any agreement, policy, form, or condition of employment.

1803.907 Classified information.

Nothing in this subpart provides any rights to disclose classified information not otherwise provided by law.

1803.970 Contract clause.

Use the clause at 1852.203-71, Requirement to Inform Employees of Whistleblower Rights, in all solicitations and contracts.

Subpart 1803.70—IG Hotline Posters

1803.7000 Policy.

NASA requires contractors to display NASA hotline posters prepared by the NASA Office of Inspector General on those contracts specified in 1803.7001, so that employees of the contractor having knowledge of waste, fraud, or abuse, can readily identify a means to contact NASA's IG.

[66 FR 29727, June 1, 2001]

1803.7001 Contract clause.

Contracting officers must insert the clause at 1852.203-70, Display of Inspector General Hotline Posters, in solicitations and contracts expected to exceed \$5,000,000 and performed at contractor facilities in the United States.

[66 FR 29727, June 1, 2001]

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.1—Contract Executive

Sec.

1804.170 Contract effective date.

Subpart 1804.4—Safeguarding Classified Information Within Industry

1804.404–70 Contract clause.

1804.470 Security requirements for unclassified information technology (IT) resources.

1804.470–1 Scope.

1804.470–2 Policy.

1804.470–3 IT security requirements.

1804.470–4 Contract clauses.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 61 FR 40539, Aug. 5, 1996, unless otherwise noted.

Subpart 1804.1—Contract Execution

1804.170 Contract effective date.

(a) *Contract effective date* means the date agreed upon by the parties for beginning the period of performance under the contract. In no case shall the effective date precede the date on which the contracting officer or designated higher approval authority signs the document.

(b) Costs incurred before the contract effective date are unallowable unless they qualify as precontract costs (see FAR 31.205–32) and the clause prescribed at 1831.205–70 is used.

Subpart 1804.4—Safeguarding Classified Information Within Industry

1804.404–70 Contract clause.

The contracting officer shall insert the clause at 1852.204–75, Security Classification Requirements, in solicitations and contracts if work is to be performed will require security clearances. This clause may be modified to add instructions for obtaining security clearances and access to security areas that are applicable to the particular acquisition and installation.

1804.470 Security requirements for unclassified information technology (IT) resources.

1804.470–1 Scope.

This section implements NASA's acquisition requirements pertaining to Federal policies for the security of unclassified information and information systems. Federal policies include the

Federal Information System Management Act (FISMA) of 2002, Homeland Security Presidential Directive (HSPD) 12, Clinger-Cohen Act of 1996 (40 U.S.C. 1401 *et seq.*), OMB Circular A–130, Management of Federal Information Resources, and the National Institute of Standards and Technology (NIST) security requirements and standards. These requirements safeguard IT services provided to NASA such as the management, operation, maintenance, development, and administration of hardware, software, firmware, computer systems, networks, and telecommunications systems.

[72 FR 26561, May 10, 2007]

1804.470–2 Policy.

NASA IT security policies and procedures for unclassified information and IT are prescribed in NASA Policy Directive (NPD) 2810, Security of Information Technology; NASA Procedural Requirements (NPR) 2810, Security of Information Technology; and interim policy updates in the form of NASA Information Technology Requirements (NITR). IT services must be performed in accordance with these policies and procedures.

[72 FR 26561, May 10, 2007]

1804.470–3 IT security requirements.

(a) These IT security requirements cover all NASA awards in which IT plays a role in the provisioning of services or products (*e.g.*, research and development, engineering, manufacturing, IT outsourcing, human resources, and finance) that support NASA in meeting its institutional and mission objectives. These requirements are applicable when a contractor or subcontractor must obtain physical or electronic access beyond that granted the general public to NASA's computer systems, networks, or IT infrastructure. These requirements are applicable when NASA information is generated, stored, processed, or exchanged with NASA or on behalf of NASA by a contractor or subcontractor, regardless of whether the information resides on a NASA or a contractor/subcontractor's information system.

(b) The Applicable Documents List (ADL) should consist of all NASA

National Aeronautics and Space Administration

1804.470-4

Agency-level IT Security and Center IT Security Policies applicable to the contract. Documents listed in the ADL as well as applicable Federal IT Security Policies are available at the NASA IT Security Policy Web site at: <http://www.nasa.gov/offices/ocio/itsecurity/index.html>.

[76 FR 4080, Jan. 24, 2011]

1804.470-4 Contract clause.

(a) Insert the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources, in *all* solicitations and awards when contract performance requires contractors to—

(1) Have physical or electronic access to NASA's computer systems, networks, or IT infrastructure; or

(2) Use information systems to generate, store, process, or exchange data

with NASA or on behalf of NASA, regardless of whether the data resides on a NASA or a contractor's information system.

(b) Parts of the clause and referenced ADL may be waived by the contracting officer if the contractor's ongoing IT security program meets or exceeds the requirements of NASA Procedural Requirements (NPR) 2810.1 in effect at time of award. The current version of NPR 2810.1 is referenced in the ADL. The contractor shall submit a written waiver request to the Contracting Officer within 30 days of award. The waiver request will be reviewed by the Center IT Security Manager. If approved, the Contractor Officer will notify the contractor, by contract modification, which parts of the clause or provisions of the ADL are waived.

[76 FR 4080, Jan. 24, 2011]